

SUBSTITUTE APPEAL BRIEF

In RE United States Patent Application of

Richard Dick

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Verified Personal Information Database

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TABLE OF CONTENTS

REAL PARTY IN INTEREST	3
RELATED APPEALS AND INTERFERENCES.....	4
STATUS OF CLAIMS	5
STATUS OF AMENDMENTS	6
SUMMARY OF CLAIMED SUBJECT MATTER	7
GROUND OF REJECTION TO BE REVIEWED ON APPEAL	10
ARGUMENT	11
Rejection under 35 U.S.C. § 103(a) over Dunn in view of Serebrennikov	11
Claims 1-10 and 12-20.....	12
Claims 1-10 and 12-14.....	14
Claims 1-10 and 12-20.....	16
Conclusion	18
CLAIMS APPENDIX.....	20
EVIDENCE APPENDIX.....	26
RELATED PROCEEDINGS APPENDIX	27

REAL PARTY IN INTEREST

The real party in interest is Innovatrend, Inc., the assignee of record.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-10 and 12-20 are pending in the application and stand rejected.

The rejection of claims 1-10 and 12-20 is being appealed.

STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection dated December 10, 2010.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 claims a method for controlling a release of personal information (page 5 lines 2-18). The method includes depositing some personal information regarding an individual with a server (page 19 lines 20-21) and using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources (page 7 lines 10-18 and page 18 lines 8-14). The method also includes presenting said some personal information over a wide area computer network to said individual to review and verify said some personal information's accuracy (page 17 lines 7-17) and accepting commentary on the accuracy of said some personal information based on review from said individual, wherein said commentary includes explanations of incorrect information on said server (page 25 lines 10-12).

The method of claim 1 further includes obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server (page 20 lines 2-9) and instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual (page 20 lines 7-9 and page 25 lines 58-59).

Independent claim 7 claims a method for creating a database of verified personal information (page 4 lines 13-19 and page 7 lines 10-18). The method includes using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources (page 7 lines 10-18 and page 18 lines 8-14), presenting said information over a wide area computer network to said individual to review and verify said information's accuracy (page 17 lines 7-17), accepting commentary on the accuracy of said

information based on said review from said individual over the wide area computer network, wherein said commentary includes explanations of incorrect information in said database (page 25 lines 10-12), and including said commentary in said database with said information (page 25 lines 3-21).

The method also includes receiving a request over said wide area computer network from an authorized individual to review selected portions of said information (page 19 lines 9-11) and instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual (page 20 lines 7-9 and page 25 lines 58-59). The method further includes presenting said request to said individual for authorization (page 29 lines 3-10), presenting said selected portions of said information over said wide area computer network to said authorized individual (page 27 line 12-page 28 line 6), providing access to said database and said commentary to third parties (page 20 lines 7-9 and page 29 lines 3-10), and obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server (page 20 lines 2-9).

Independent claim 15 claims a method for creating and sharing a database of verified personal information (page 4 lines 13-19 and page 7 lines 10-18). The method includes using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources (page 7 lines 10-18 and page 18 lines 8-14), presenting said information and the sources of said information over the wide area computer network to said individual to review and verify said information's accuracy (page 17 lines 7-17), accepting commentary on the accuracy of said information based on said review from said

individual over the wide area computer network (page 25 lines 10-12), and including said commentary in said database with said information (page 25 lines 3-21).

The method of claim 15 also includes receiving a request over said wide area computer network from an authorized individual to review selected portions of said information (page 19 lines 9-11), instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual (page 20 lines 7-9 and page 25 lines 58-59), and presenting said request to said individual for authorization (page 29 lines 3-10). The method additionally includes presenting said selected portions of said information over said wide area computer network to said authorized individual along with identification of said sources of said selected portions of said information and any commentary on the accuracy of said selected portions of said information provided by said individual (page 27 line 12-page 28 line 6 and page 25 lines 16-21), providing access to said database and said commentary to third parties (paragraphs page 27 line 12-page 28 line 6 and page 25 lines 16-21 42 and 64), and obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server (page 20 lines 2-9).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-10 and 12-20 are unpatentable under 35 U.S.C. § 103 over Dunn in view of Serebrennikov.

ARGUMENT

Applicant respectfully asks the Board of Patent Appeals and Interferences (“Board”) to reverse the Examiner’s rejections under 35 U.S.C. § 103(a). The obviousness rejections are improper as the Examiner failed to provide a *prima facie* case of obviousness because the Examiner failed to show how the references cited, either alone or in combination, teach or suggest all the limitations claimed in the claim set. The references fail to teach or suggest all the claim limitations of the rejected claims, and there is no showing that one of skill in the art would have found it obvious to modify the teachings of the cited reference to arrive at the claimed invention.

In the Office Action dated December 10, 2010 (“the Office Action”) the Examiner rejected claims 1-10 and 12-20 under 35 U.S.C. § 103(a) as being unpatentable over Dunn (U.S. 7,076,558) in view of Serebrennikov (U.S. P.G. Pub. 2003/0078987).

Accordingly, Applicant respectfully provides the following.

Rejection under 35 U.S.C. § 103(a) over Dunn in view of Serebrennikov

The Board should reverse the Examiner’s finding of obviousness of claims 1-10 and 11-20 over Dunn in view of Serebrennikov. “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). M.P.E.P. § 2141 sets forth the *Graham* factual enquiries that should be considered when making an obviousness rejection under Section 103: 1) ascertaining the scope and content of the prior art; 2) ascertaining the differences between the claimed invention and the prior art; and 3) resolving the level of ordinary skill in the pertinent art. (Citing *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).) In addition, M.P.E.P. §§ 2141 and 2142 set forth that “the analysis supporting a rejection under 35 U.S.C. 103 should be

made explicit.” (Citing *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007).)

For a rejection under Section 103 to stand, it must explicitly set forth 1) factual findings showing that each claim element was known in the art at the time of the invention, and 2) factual findings showing that one of ordinary skill in the art, at the time of the invention, would have found it obvious to modify or combine the teachings to arrive at the claimed invention. (See, for example, the enumerated required articulations set forth in M.P.E.P. § 2143 for each lettered rationale.)

Applicant respectfully submits that the references cited in the Office Action do not teach or suggest all the limitations claimed in the claim set. Applicant also respectfully submits that the Examiner has failed to show how one of skill in the art would have found it obvious to overcome the differences between the prior art and the claimed invention to arrive at the claimed invention.

Claims 1-10 and 12-20

All claims were rejected as being unpatentable over Dunn in view of Serebrennikov. Claims 2-6 and 14 depend from claim 1, claims 8-10 and 11-13 depend from claim 7, and claims 16-20 depend from claim 15. Each of the independent claims contains the following limitation:

using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources;

(Emphasis added.) The Examiner acknowledged that Dunn fails to teach using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources. The Examiner erred in relying on Serebrennikov to reject such claim limitation and failed to show that Serebrennikov teaches such claim limitation.

While Serebrennikov discusses the use of metadata “crawlers,” the crawlers of Serebrennikov are not disclosed as performing the function recited in Applicant’s claims. In Serebrennikov, the system relies on distributed “Number Files” containing metadata to provide a function whereby network and communications resources (e.g. a webpage, videoconferencing, instant messaging, SMS, and the like) can be associated with, identified, and accessed using a known telephone number. (See Para. 27-29, 35, and 60, for example.) Each customer’s Number File(s) is/are stored on his or her local server that contains the identified resource(s) where the customer can readily update its Number File(s). (See Para. 49, for example.) A database and index is maintained with copies of the various Number Files and their entries (see Fig. 1B and Para. 62) so that network resource requests can be rapidly fulfilled when a telephone number is entered (see Para. 64).

With this background, the description and function of Serebrennikov’s “crawlers” comes to life and can be understood. Each customer is able to modify its own local copy of its own Number File as network resources change, as recited in Para. 110-117 cited in the Office Action. (Applicant notes that nowhere in such passage is there any description of “explanations of incorrect information” as alleged in the Office Action that may be said to correspond to the limitations of claims 1 and 7, as is discussed in more detail below.) The function of the “crawler” is described in Para. 118-124: the Crawler polls each customer’s web site searching for updated local Number Files (Para. 120), retrieves the local Number File and parses it to obtain its information (Para. 120), then compares its entries to those in the central database and updates the database with any changes (Para. 121).

Thus, the “crawler” of Serebrennikov does not “locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources” as recited

in claim 1 (and the other corresponding limitations of claims 7 and 15). Instead, Serebrennikov's crawler only finds and retrieves individual customers' Number Files, which do not include publicly-available information regarding said individual as recited in the claims.

Applicant notes that Serebrennikov discusses that in some instances, the "resources" may be "persons rather than Web pages" whereby the service acts as person locator. In that instance, while the web crawler of Serebrennikov may access information regarding persons, it is not accessing publicly-available information regarding said individual from a plurality of sources, but is accessing non-public information regarding many individuals.

No reasoning was provided to explain how one of skill in the art would have purportedly found it obvious to modify the teachings of Serebrennikov to overcome the differences between what is taught by Serebrennikov and the claimed limitation to arrive at the claimed limitation.

Thus, the Office Action fails to show that Serebrennikov teaches the claim limitation admittedly not taught by Dunn of "using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources," and indeed, Serebrennikov fails to teach such limitation. For this reason alone, the rejections of all claims should be reversed.

Claims 1-10 and 12-14

Claims 1-10 and 12-14 were rejected as being unpatentable over Dunn in view of Serebrennikov. Claims 2-6 and 14 depend from claim 1 and claims 8-10 and 11-13 depend from claim 7. Independent claim 1 contains the following limitation:

accepting commentary on the accuracy of said some personal information based on review from said individual, wherein said commentary includes explanations of incorrect information on said server

(Emphasis added.) Independent claim 7 contains the following similar limitation:

accepting commentary on the accuracy of said information based on said review from said individual over the wide area computer network, wherein said commentary includes explanations of incorrect information in said database

(Emphasis added.)

In the Office Action, the Examiner acknowledged that Dunn fails to teach such limitations. The Examiner then cited to Paragraphs 98-99 and 110-117 with Figs. 2A, 2B and 3 of Serebrennikov, but such passages do not teach the claimed limitation. Certainly, Serebrennikov teaches that the user may select the Live update feature, which merely forces the system to start the crawler and locate the user's updated local Number File. (See Para. 98.) But the cited Paragraphs 110-117 do not teach accepting commentary based on the individual's review wherein the commentary includes explanations of incorrect information on the server. The paragraphs only teach reporting incorrect information about other users (Para. 110) and correcting one's own information (but not adding commentary on incorrect information on the server) (Para. 111-117).

No reasoning was provided to explain how one of skill in the art would have purportedly found it obvious to modify the teachings of Serebrennikov to overcome the differences between what is taught by Serebrennikov and the claimed limitations to arrive at the claimed limitations.

Therefore, the rejections fail to show that Serebrennikov teaches the claim limitations admittedly not taught by Dunn of "accepting commentary . . . wherein said commentary includes explanations of incorrect information" in/on the database/server as recited in independent claims 1 and 7. For at least this separate reason, the rejections of claims 1 and 7 and all claims dependent therefrom should be reversed.

Claims 1-10 and 12-20

All claims were rejected as being unpatentable over Dunn in view of Serebrennikov.

Claims 2-6 and 14 depend from claim 1, claims 8-10 and 11-13 depend from claim 7, and claims 16-20 depend from claim 15. Independent claim 1 contains the following limitations:

presenting said some personal information over a wide area computer network to said individual to review and verify said some personal information's accuracy;

accepting commentary on the accuracy of said some personal information based on review from said individual, wherein said commentary includes explanations of incorrect information on said server;

Similarly, independent claim 7 contains the following limitations:

presenting said information over a wide area computer network to said individual to review and verify said information's accuracy;

accepting commentary on the accuracy of said information based on said review from said individual over the wide area computer network, wherein said commentary includes explanations of incorrect information in said database;

Independent claim 15 contains the following limitations:

presenting said information and the sources of said information over the wide area computer network to said individual to review and verify said information's accuracy;

accepting commentary on the accuracy of said information based on said review from said individual over the wide area computer network;

Applicant respectfully submits that the Office Action has failed to show that Dunn teaches the claim elements for which it is relied on, and indeed that Dunn fails to teach such claim limitations. The Examiner rejected such language, relying on portions of Dunn that are related to presenting requests for access to the user's personal information, not presenting the information itself for accuracy review. Thus, the Office Action fails to show that Dunn teaches either presenting personal information regarding the individual to the individual to review and

verify that information or accepting commentary on the accuracy of such personal information as required by each of the independent claims.

Specifically, the Office Action relies on Col. 3 lines 8-18, Col. 7 lines 21-34, Col. 12 lines 1-64, and Fig. 3 and alleges that these passages teach presenting the personal information about the individual to the individual to review and verify the information's accuracy. Applicant respectfully disagrees with this mischaracterization of the teachings of Dunn. Fig. 3 merely shows a consent menu that allows a user to select what information XYZ Auto will have authority to access. Notably, no information about the user is shown as being provided for review or entering commentary on such information's accuracy as is required by the claims. The cited portion of Col. 3 mentions a consent management system and the consent menu shown in Figure 3. The cited portion of Col. 7 discloses that when a third party's request for information does not fall within the default allowable request, a consent user interface is displayed to obtain the user's authorization to allow access to the information.

While this passage mentions that it shows "the information requested" and it may therefore possibly be understandable (though incorrect) for the Examiner to state that Dunn therefore teaches presenting some personal information over a wide area computer network to said individual, it cannot be said that such passage teaches "presenting said some personal information over a wide area computer network to said individual to review and verify said some personal information's accuracy" as is required by the claim. Additionally, such passage should be read in light of the disclosure of Figs. 3 and 13, which Figures show that the user's information is not actually shown or presented to the user, but instead the user is merely presented a summary statement of what will be accessed if the consent is granted. (Fig. 3 shows "share your identity with third parties as necessary to complete the transaction..." and Fig. 13

shows the same passage as well as “permission to access your calendar” for read and write purposes, and no actual personal information is displayed.)

Finally, the cited portion of Col. 12 is merely a more-detailed description of an access request transaction, beginning with the repair shop system sending a request message seeking access to the user’s information stating what information will be accessed and used. (Col. 12 lines 8-24.) If the request is not granted by default preferences, it is denied, and the repair shop can opt to request that the user be presented with the consent menu discussed above. (Col. 12 lines 37-43.) The user can opt to accept, partially accept, or deny the request for access. (Col. 12 lines 44-64.)

Thus, none of the cited passages stand for the propositions on which they are relied, and Dunn has not been shown to teach presenting said some personal information over a wide area computer network to said individual to review and verify said some personal information’s accuracy, and accepting commentary on the accuracy of said some personal information based on review from said individual, wherein said commentary includes explanations of incorrect information on said server as recited in the claims.

No reasoning was provided to explain how one of skill in the art would have purportedly found it obvious to modify the teachings of Dunn to overcome the differences between what is taught by Dunn and the claimed limitations to arrive at the claimed limitation.

For these additional reasons, the rejections of all claims should be reversed.

Conclusion

The Board should reverse each of the Examiner’s rejections under 35 U.S.C. § 103(a). None of the rejections made by the Examiner provide a *prima facie* case of unpatentability. The

obviousness rejections lack a showing that the cited references disclose every element of the claims, and there is no showing that one of skill in the art would have found it obvious to modify the references to overcome the differences between the prior art and the claimed invention to arrive at the claimed invention. The Board should therefore reverse the Examiner as to all outstanding rejections.

Respectfully submitted,

/Michael Krieger/
Michael F. Krieger
Attorney for Applicant
Registration No. 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893

CLAIMS APPENDIX

1. A method for controlling a release of personal information comprising:
depositing some personal information regarding an individual with a server;
using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources;
presenting said some personal information over a wide area computer network to said individual to review and verify said some personal information's accuracy;
accepting commentary on the accuracy of said some personal information based on review from said individual, wherein said commentary includes explanations of incorrect information on said server;
obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server; and
instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual.
2. The method of claim 1, wherein said server is Internet-accessible.
3. The method of claim 1, wherein using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources occurs automatically.
4. The method of claim 1 wherein said individual is a member of a database service.

5. The method of claim 1 wherein said personal information comprises database entries.
6. The method of claim 1 wherein said obligated organizations are subscribers to a database service.
7. A method for creating a database of verified personal information comprising:
 - using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources;
 - presenting said information over a wide area computer network to said individual to review and verify said information's accuracy;
 - accepting commentary on the accuracy of said information based on said review from said individual over the wide area computer network, wherein said commentary includes explanations of incorrect information in said database;
 - including said commentary in said database with said information;
 - receiving a request over said wide area computer network from an authorized individual to review selected portions of said information;
 - instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual;
 - presenting said request to said individual for authorization;
 - presenting said selected portions of said information over said wide area computer network to said authorized individual;
 - providing access to said database and said commentary to third parties; and

obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server.

8. The method of claim 7, wherein said wide area computer network is an internet.
9. The method of claim 7, wherein said the step of automatically gathering information further comprises using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources.
10. The method of claim 7 wherein said individual is a member of a database service.
11. (canceled)
12. The method of claim 7 wherein said third parties are subscribers to a database service.
13. The method of claim 7 wherein said authorized individuals are members of a database service.

14. The method of claim 1, wherein obligating organizations that possess additional personal information regarding said individual to not disclose that additional personal information without authorization from said server comprises:

receiving a disclosure from said individual at said server identifying said organizations that possess said additional personal information;

contacting said organizations that possess said additional personal information with said server; and

receiving a contractual agreement from said organizations that possess said additional personal information to not release said additional personal information to third parties without first contacting said server for authorization.

15. A method for creating and sharing a database of verified personal information comprising:

using web crawler programs to locate and retrieve publicly-available information regarding said individual from a plurality of Internet-accessible sources;

presenting said information and the sources of said information over the wide area computer network to said individual to review and verify said information's accuracy;

accepting commentary on the accuracy of said information based on said review from said individual over the wide area computer network;

including said commentary in said database with said information;

receiving a request over said wide area computer network from an authorized individual to review selected portions of said information;

instructing said server to not release said some personal information held on the server and to not authorize release of said additional personal information at the obligated organizations without receiving authorization from said individual;

presenting said request to said individual for authorization;

presenting said selected portions of said information over said wide area computer network to said authorized individual along with identification of said sources of said selected portions of said information and any commentary on the accuracy of said selected portions of said information provided by said individual;

providing access to said database and said commentary to third parties; and

obligating organizations that possess additional personal information regarding said individual to not disclose said additional personal information without authorization from said server.

16. The method of claim 15, further comprising:

supplementing said information regarding the individual by a continuous gathering process;

notifying said individual of updates to said information located by said continuous gathering process; and

accepting further commentary on the accuracy of said updates to said information from said individual over the wide area computer network.

17. The method of claim 15, further comprising:
receiving a search of said database from a third party that results in information about said individual being displayed to said third party; and
notifying said individual of said search and said display.

18. The method of claim 15, further comprising:
receiving additional information from said individual over the wide area computer network; and
receiving a designation from said individual designating said additional information as one of:
information to be made available to all subscribers of said database; and
information to be released only upon specific authorization of said individual.

19. The method of claim 15, wherein the commentary on the accuracy of said information comprises an indication that a portion of said information is incorrectly associated with said individual.

20. The method of claim 15, further comprising requiring said third parties to register with said database and present said database with identifying information prior to providing access to said database and to said commentary to said third parties.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.